



The Commonwealth of Massachusetts

**DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY**

March 24, 2006

D.T.E. 04-114-A/D.T.E. 03-118-A

Petition of Cambridge Electric Light Company and Commonwealth Electric Company
requesting approval of their 2003 and 2004 Transition Cost Reconciliation Filings, pursuant to
G.L. c. 164, §1A(a) and 220 C.M.R. § 11.03 (4)(e).

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FOR: COMMONWEALTH ELECTRIC COMPANY and
CAMBRIDGE ELECTRIC LIGHT COMPANY
Petitioners

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FOR: THE ENERGY CONSORTIUM
Limited Participant

I. INTRODUCTION

This is a consolidated proceeding relating to the 2003 and 2004 reconciliation filings of Cambridge Electric Light Company (“Cambridge”) and Commonwealth Electric Company (“Commonwealth”) d/b/a NSTAR Electric (collectively, “the Companies”). On October 19, 2005, the Department of Telecommunications and Energy (“Department”) approved a Settlement Agreement between the Companies and the Attorney General of the Commonwealth (together, “Parties”) that resolved all issues relating to the reconciliation of costs and revenues for the calendar years 2003 and 2004 with three exceptions (“First Settlement”). Cambridge Electric Light Company/ Commonwealth Electric Company, D.T.E. 04-114/03-118 (2005). Two of these exceptions have been deferred for consideration until the Companies’ 2005 reconciliation proceeding (id. at 3). The third exception relates to the Companies’ reconciliation of transmission costs and revenues (id.).

On February 24, 2006, the Parties filed: (1) a Joint Motion for Approval of Second Settlement Agreement (“Joint Motion”); and (2) a Second Settlement Agreement (“Second Settlement”) that purports to resolve the reconciliation of transmission costs and revenues and the propriety of the recovery of transmission costs from March 1, 1998 through December 31, 2004. The Joint Motion requests approval of the Second Settlement by March 24, 2006. No comments were filed on the Settlement.¹

¹ On its own motion, the Department admits into evidence the Companies’ responses to five Department information requests, marked as Exhibits DTE 5-1 through DTE5-5.

II. THE SETTLEMENT

The Second Settlement states that it resolves all disputes relating to the Companies' booking of transmission costs and revenues in account 561-140 during the period of March 1, 1998 through December 31, 2004 (Second Settlement at § 2.1). It also provides that "the Companies shall, in full satisfaction of any disputes relating to the reconciliation of transmission costs and revenues from March 1, 1998 through December 31, 2004, credit customers of Cambridge \$2.512 million and Commonwealth \$6.089 million in setting new retail transmission rates for effect on January 1, 2007" (id. at § 2.1.2). The Companies will credit those amounts between January 1, 2007 and December 31, 2007 "to classes of customers using the same methodology used in establishing class-specific transmission rates during the period of collection of the disputed costs and revenues" (id.). The Companies will implement the credits in their 2006 reconciliation filing, subject to the approval of the Department (id.). Finally, the Parties agree that "the reconciliation of transmission costs and revenues for 2003 and 2004 is set forth in Exhibit CAM-JFL-3 (Supp. 2) and Exhibit COM-JFL-3 (Supp. 2) in D.T.E. 03-118 and Exhibit CAM-CLV-3 (Supp. 2) and Exhibit COM-CLV-3 (Supp. 2) in D.T.E. 04-114" (id. at § 2.1.1).

In addition, the Second Settlement states that, other than where expressly stated, the settlement: (1) shall not constitute an admission by any party that any allegation or contention in this proceeding is true or false; and (2) shall not in any respect constitute a determination by the Department as to the merits of any issue raised during this proceeding (id. at § 3.1). The Second Settlement also states that it establishes no principles and, except as to those issues

resolved by approval of this settlement, shall not foreclose any party from making any contention in any future proceedings (id. at § 3.2).

The Second Settlement provides that the Parties agree that the content of settlement negotiations (including work papers and documents produced in connection with the Settlement) are confidential (id. at § 3.3). The Second Settlement also states that all offers of settlement are without prejudice to the position of any party or participant presenting such offer or participating in such discussion (id.). The Second Settlement provides that the content of settlement negotiations are not to be used in any manner with these or other proceedings involving Parties to this settlement (id.).

The Second Settlement provides that its provisions are not severable (id. at § 3.4). Should the Department not approve the Second Settlement in its entirety by March 24, 2006, the settlement states that it shall be deemed withdrawn and not constitute any part of the record in this proceeding or be used for any other purpose (id. at § 3.5).

III. STANDARD OF REVIEW

In assessing the reasonableness of an offer of settlement, the Department reviews the entire record as presented in a company's filing and other record evidence to ensure that the settlement is consistent with applicable law, including relevant provisions of the Restructuring Act, Department precedent, and the public interest. Boston Edison Company, D.P.U./D.T.E. 96-23, at 13 (1998); Berkshire Gas Company, D.P.U. 96-92, at 8 (1996); Boston Gas Company, D.P.U. 96-50, at 7 (Phase I) (1996). A settlement among the parties

does not relieve the Department of its statutory obligation to conclude its investigation with a finding that a just and reasonable outcome will result. Essex County Gas Company, D.P.U. 96-70, at 5-6 (1996); Fall River Gas Company, D.P.U. 96-60, at 5 (1996).

IV. ANALYSIS AND FINDINGS

Upon review of the entire record in this proceeding, the Department finds that, on balance, the Second Settlement represents a reasonable resolution of the transmission issues in this proceeding. The Department finds that the Second Settlement's method of reconciling the Companies' transmission costs and revenues is consistent with their Restructuring Plans and Department precedent. Moreover, the Second Settlement's method of reconciling costs and revenues substantially complies with the Restructuring Act and is in the public interest. Therefore, the Department approves the Second Settlement.²

² The Department notes the Second Settlement's confidentiality provision set out at § 3.3 does not bind the Department or preclude its inquiry as events may warrant. To the extent that the parties intend the assertion of confidentiality to be a motion for protective treatment, it is premature.

V. ORDER

Accordingly, after review and consideration, it is

ORDERED: That the Joint Motion for Approval of Second Settlement Agreement, submitted by Cambridge Electric Light Company and Commonwealth Electric Company and the Attorney General on February 24, 2006, is ALLOWED and the Settlement Agreement is therefore APPROVED.

By Order of the Department,

/s/
Judith F. Judson, Chairman

/s/
James Connelly, Commissioner

/s/
W. Robert Keating, Commissioner

/s/
Paul G. Afonso, Commissioner

/s/
Brian Paul Golden, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.